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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMONS FOR JUDGMENT NO. 597 OF 2005
IN
SUIT NO. 1766 OF 2005

Shri Ganpatilal Mangilal Jain .. Plaintiff.

vs.

Jay Pharma & Ors. .. Defendants.

Suresh Gole with Ms. Sandhya Amin for plaintiff.

Mr. M.K. Meghani i/by S.S. Jain

for Defendant nos. 1 & 2.

Mr. Viraj Maniar for defendatn no. 3.

CORAM : S.U.KAMDAR, J.

DATE : 20th February, 2006.

P.C.

. The present suit is filed in respect of a dishonoured cheque for the sum of Rs. 4,09,752/- and interest thereon of Rs.1,72,096/- totalling to a sum of Rs. 5,81,848/-. The said cheque was issued in respect of the goods sold and delivered by the plaintiff to defendant nos. 1 and 2. Defendant no. 1 is the sole proprietary concern by defendant no. 2. The learned counsel for the defendant nos. 1 and 2 states that defendant nos. 1 and 2 are not

liable because the delivery of goods is effected to defendant no. 3. However, the invoices are in the name of defendant nos. 1 and 2 and in fact the defendant nos. 1 and 2 issued the cheque for the payment of the aforesaid amount to the plaintiff. In that light of the matter, the defence raised has no substance and/or merit. In so far as defendant no. 3 is concerned, there is no privity of contract between the plaintiff and defendant no. 3 and, therefore, defendant no. 3 is entitled to unconditional leave to defend. However, the defendant nos. 1 and 2 are liable for the aforesaid amount. In view of the fact that there is no substantial defence, the defendant nos. 1 and 2 are given leave to defend the suit on condition to deposit a sum of Rs. 5 lacs within a period of four weeks from today failing which the plaintiff will be entitled to decree as against defendant nos. 1 and 2. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court. Summons for judgment disposed of accordingly.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit.

Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.